

### REMARKS

In response to the Final Office Action mailed July 28, 2005 and as required by 37 C.F.R. 1.801-1.809, Applicant's attorney submits this Amendment.

The Examiner has rejected claims 1-7 and 11-28 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. As stated in the specification on page 32, the seed deposit is being maintained by Delta and Pine Land Company. The deposit will be available to the Commissioner during the pendency of this application and, upon allowance of any claims, a deposit of the seed will be made with the American Type Culture Collection.

The undersigned avers that:


- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;
- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) a test of the viability of the biological material at the time of deposit will be performed; and
- e) the deposit will be replaced if it should ever become inviable or when requested by ATCC.

Accordingly, withdrawal of the 35 U.S.C. §112, first paragraph, rejection directed to claims 1-7 and 11-28 as failing to comply with the enablement requirement is respectfully requested.

In view of the above remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §112, first paragraph. Reconsideration of this application and early notice of allowance is respectfully requested.

Application No. 10/807,867  
Supplemental Amendment dated September 16, 2005  
Reply to Final Office Action dated July 28, 2005

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